

RELEASE.

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JAMES N. HATTEN, Clerk
By: [Signature] Deputy Clerk

The Court has an opportunity to
Correct and Injustice.

On January 2007, Mr. Perez Urena.
was sentenced to a mandatory term
OF Life in Prison.

For a Drug OFFENSE.

At that time, the court's hands
were bound. Because the government
file two 851 notices based on
Mr. Perez-Urena two prior
Felony Drug conviction.

The first was in "1981" it was
for low-level Drug Selling.
Serve 1 year and the balance
probated.

The second was in "1992"

This conviction was for possession
of heroin with the intent to
Distribute and serve approximately
34 months. The court had no
other option, but to sentence
Mr. Perez-Urena TO Life.

In 2018, The congress passed
The First Step Act to prevent
Individuals like Mr. Perez-Urena
from having to serve life
in Prison.

It Reduced the mandatory minimums in 21 U.S.C. 841(b)(1)(A) it limited the convictions that would justify an enhancement to only those convictions that meet the definition of a "Serious" Drug Felony, and it broadened the Definition of a Serious Drug Felony.

and it broadened, the District court's jurisdiction to compassionate Reduction in just Sentences under 3582(c)(1)(A)(i).

Under current Law, IF Mr. Perez-Urena were Resentenced, he would not be looking at anything close to a Life Sentence.

Mr. Perez-Urena now moves for a compassionate Reduction in his Sentence under 3582(c)(1)(A).

Because of the change in the Law, the ongoing COVID-19 Pandemic and his Age, Background and Significant Effort's toward Rehabilitation

combined and on their own these considerations constitute an "exceptional and compelling Reason that warrant a Sentence Reduction.

Mr. Perez-Urena Criminal conduct does not justify a Sentence To Death in Prison.

IF Released now he would Be Returned to his native country OF Mexico.

Mr. Perez-Urena.

Request that this court say "Enough is Enough".

Resentence him, and allow him to Return to Mexico.

Mr. Perez-Urena.

Filed a motion to modify his Sentence pursuant to.

18 U.S.C. 3582(c)(2) and USSC 1B1.10.

The court Denied this motion nothing that Mr Perez-Urena guidelines was not Reduced by The "Drugs minus two".

Amendment to the Sentencing guidelines and also that he was ineligible For Relief.

Because BHI (b)(1)(CA) -
Required that he be sentenced
to life in prison.

Summary of the efforts by -
Mr. Perez to improve -
himself while serving his
life sentence.

Despite the mystery of his
life sentence, Mr. Perez has
been productive in the past -
15 years.

Because of his life sentence -
Mr. Perez-Vera has served his
sentence at high - security -
facilities, and despite being
and illegal alien with limited
ability to speak English, he
has engaged in a number of
productive activities.

This includes obtaining his
G.E.D. in 2013.

Completed an anger management
program in 2010, and also
attended and received -
certificates in a several -
music classes and a
sewing class. →

In addition, Mr. Perez-Urena's file contains a letter dated December 17, 2015. From Mr. Perez-Urena, Supervisor at the "Unicorn" Cut and Sew Factory, located at U.S.P. Braumort, through the end of 2015 - Supervisor Whitaker supervised Mr. Perez-Urena for over 3 years.

The letter indicated that Mr. Perez-Urena is a very proficient, reliable worker who takes his assigned tasks seriously, pays attention to detail and conducts himself in a professional manner at all times.

In addition, Mr. Perez-Urena displays an "exemplary attitude" for others to follow.

He is constantly learning new skills and has been

instrumental in helping to train other inmates.

The letter also indicated that Mr. Perez-Urena has received several

special achievement incentive awards for his outstanding contribution to "Unicorn".

In December 2015, Mr. Perez-Urena received a certificate of achievement from Unicorn, with regard to his work as an Industrial Sewing Machine operator.

UNICORN, no longer operates the cut and sew factory at USP, Beaumont.

And, Mr. Perez-Urena has been working since January 2016 as a Library education orderly. His file contains a letter from his supervisor,

N. Frelaw, which notes that Mr. Perez-Urena has demonstrated and excelled a good work ethic and attendance.

I acknowledge his Reliability and Diligence.

"Argument For A 3582(c)(1)(A)(i) Reduction Section 503(c) OF -

The First Step Act, 2018 - Expanded the authority of the

court to grant compassionate release. See, United States v. Young, No. 2:00-cr-00002-1 2020 WL 1047815, (M.O. Term. Mar 4, 2020) (Congress's "express purpose" was "to expand the use of Compassionate Release - Sentence Reductions").

This court may Reduce a Sentence upon a motion of "A defendant once the defendant has exhausted and shown that "extraordinary and compelling reasons" exist.

18 U.S.C. 3582(c)(1)(A)(i).

Here the court has jurisdiction to consider Mr. Perez-Urena's motion.

The injustice of Mr. Perez-Urena's Sentence is an extraordinary and compelling Reason alone or combined with the ongoing COVID-19 Pandemic and Mr. Perez-Urena's

Demonstrated Rehabilitation.

The court should Reduce Mr. Perez-Urena's Sentence under 18 U.S.C. 3582(c)(1)(A)(i) and

constituting the 3553(a) -
Factors.

Extraordinary and compelling
Reason justify a -
Sentence Reduction.

To grant a compassionate -
Release motion.

The court must find extraordinary
and compelling Reasons.

Congress has never defined
what constitutes

"extraordinary and compelling
Reasons."

Instead it delegated that to the
Sentencing commission.

Sec. 28, U.S.C. 994.(+)

The commission Recommendation
appears in commentary to
USSC 1B1.13 (The actual -
policy statement just repeats
the statutory language).

nothing that extraordinary -
and compelling Reasons.

may include - medical conditions
Age - Family circumstances and
other Reasons Id. at.

App. n.1. The commentary
Does not limit other Reasons."

But says that it could be any extraordinary and compelling Reason other, than or in combination with medical conditions. As a Family. Circumstances, Id. the commissioner's statement was however. Formulated before the First step act passed and. Since then it had not met. To Redefine or clarify. what "extraordinary and compelling might mean".

United states v. Brown,
411 F. Supp. 3d 446, 449 n1
(S.D. Iowa Oct 8, 2019).

Looking at the commissions. Earlier statements court's have Regarded them as helpful, but Anachronistic.

"The Scope of the old policy. Statement is clearly outdated and, at the very least does not apply to the entire Field. OF Post-First step Act motions...

Therefore, the policy statement may provide helpful guidance.

But does not limit the court's independent assessments of whether extraordinary and compelling.

Reasons exist under.

3582 (c)(1)(i) United States v. Rahmeyer, NO. 2:03-CR-00271-AB-1 2006 WL 1627331 at *1 (E.D.Pa. - Apr. 1, 2006)

See United States v. Fox -

N° 2:14-CR-03-DBH, 2019 WL -

3046086, at *3 (D. Me. July 11, 2019)

(I agree with the courts that have said that the commission's existing policy statement provides helpful guidance (but) is not ultimately conclusive given the statutory change.

Thus courts have said that they don't have to sit on their hands in situation like these and wait for the commission to provide greater guidance.

Instead because the "statute's" text directly instructs courts to find that

Extraordinary circumstances exist.

The court may determine what falls within those statutory terms.

Rodriguez 2020 WL 1627331...
at *6 (Emphasis in original)

See also United States v. Beck...

No. 1:13-cr-180-G, 2019

WL 2716505 at *7 (M.D.N.C. June 28, 2019)

While the old policy statement provides helpful guidance it...

Does not constrain the court's Independent assessment)

"United States v. Lisi"

No. 15 CR. 457 (KPF) 2020

WL 881994 at *3 (S.D.N.Y. Feb. 24, 2020)

and court's have acknowledge that

"congress express purpose" in

Amending 3582(c)(1)(A) by

The First Step Act was to

Expand the use of compassionate

Release Sentence Reductions"

United States v. Young

No. 200-cr-00002-1, 2020

WL 1047815

C.M.D. Tenn. Mar. 4, 2020

In Determining what qualifies

The court can Rely. on the

"Ordinary and Compelling"

Taniguchi, v. Kan. Pac.

Saipan, Ltd. 566 U.S. 560, 566 (2012)

Black's Law Dictionary defines extraordinary as beyond what is usual, customary, regular, or common.

Black's Law Dictionary

(Defining extraordinary)

11th ed. 2019. It defines ..

compelling need as a need so great

that irreparable harm or ..

injustice would result if it is not

met. Black's Law Dictionary

(Defining compelling need)

(11th ed. 2019) Taken together

they constitute the standards this

court should apply: The Reason

must be "beyond what is usual.

Customary, Regular, or common.

and the Reason must be so great

that irreparable harm or injustice

would result if the Relief

is not granted.

See, United States v. Cantu,

N. 1:05-cr-458-1, 2019 WL 2498923 at

*5 (S.D. Tex. June 17, 2019).

(Applying this approach with an
Oxford Dictionary).

Beck. 2019, WL 2716505 at *8
(Same) ultimately, though, the courts
determinations of what constituted
extraordinary and compelling.
Rest in the court's authority and
discretion" upon the court's.
Independent Finding.

Young 2020, WL 1047815 at *6.
(collecting case).

The injustice

of Mr. Perez's life
sentence is an extraordinary and
compelling reason.

As the court previously said:
There is not justice.

In the mandatory sentence the
defendant received.

[E.D.K.T. No. 201 At P.47]

With passage of the First Step
Act of 2018.

This court correct that injustice
on defendant's own motion.

Since 2018 various district
courts have concluded that the
injustice of abiding a sentence
that was required under the
law before the
First Step Act of 2018

But which after the First Step Act is not, can provided an extraordinary and compelling circumstance that warrants Resentencing.

For example: in.

United States v. Maumaw, the Defendant, who was 45 years old when he was arrested.

was sentenced based on charges consistent with the mandatory minimum on each of the charges.

United States v. Maumaw,
N. 2:08-cr-00758-TC-11 2020 WL 806121 at *5 C.D. Utah.
Feb. 18 2020.

The court noted that as part of the First Step Act,

Congress eliminated the injustice of stacking consecutive 25 years sentence based on multiple 924 Cc's Id.

When considered together, the court is inclined to find that the Defendant's age the length of sentence imposed and the fact that he.

would not receive the same sentence if the crime occurred today.

All Represent extraordinary and compelling grounds to reduce his sentence."

Id similarly in United States v. Young

The District court for the middle District of Tennessee held that the drastic change effected by the First Step Act's amendment of 924(c) constitutes and extraordinary and compelling reason for a sentence reduction under 18 U.S.C.

3582(c)(1)(A)

When considered with the Defendant's Age and Background. 2020 WL 1047815 at*8 In Young the court Resentenced the Defendant to 240 months which was below the mandatory minimum that applied to the mandatory minimum applicable, At the defendant's original sentence. See. United States v. Young. No 2:00-cr-00002-1 -

C.M.D. Tenn. Mar 4. 2020.

Dkt. No. 109

See also. United States

V. O' Bryan. No. 96-10076-03 JM. 2020

WL 869475 *1 (D. Kan. Feb. 21. 2020)

granting Reduction because of
The 924(c) Sentence stacking
as defendant's 25 years
Sentence would now be ten.

United States V. Urkevich.

No 8:08 cr 37, 2019 WL 6037391 *2

(D. Neb. Nov. 14. 2019).

granting Reduction because of
The 924 Sentence stacking as
Defendant's 848 month Sentence
would be 368 months today.

Congress and the commission have
given limited guidance to whether
the amendments to 841(c)(1)(A)'s
mandatory penalties are alone or
extraordinary and compelling.

Reason - with passage of

The First Step Act however
what is extraordinary and compelling
is now left to the courts.

See United States V. FOX

No 2:14-cr 03 DBH 2019

WL 3046086 At *3 (D. Me.)

July 11, 2019.

Treating "The previous - BOP Discretion to identify other extraordinary and compelling Reasons as assigned now to the courts). Congress mandate in expanding the compassionate Release statute was intended to allow district judges to consider the vast variety of Reason that may be extraordinary and compelling.

not to limit compassionate Release to those that the BOP or the commission had previously deemed to justify compassionate Release

See Brown. No. 4:05 cr 00227. Dkt No. 246 at *10 - 13

Counsel Recognizes that Section 401 of the First Step Act is not Retroactive.

The statute does not mandate Reconsideration.

But the amendments to section 401 make the life sentence in this case

Fundamentally Unfair.

IF he were sentenced today,
neither of his prior Drug
Felonies would justify or
increase in the mandatory -
minimum from - 10 years, to
LIFE.

IF he were sentenced today,
his mandatory minimum would be
15 years - 10 years on his -
conviction under 84(Cb)(1)(A)
plus an additional 5 years under
924(c) IF he were sentenced today
he would assuredly not receive
a LIFE sentence from any -
District court Judge.

His sentence is simply a function
OF the time at which he was
punished for his crimes.

IF this, Fundamental unfairness is
not an extraordinary and -
Compelling Reason.

Then what is?

The COVID 19 Pandemic
is an extraordinary and -
Compelling Reason.

The number of courts that
have granted Compassionate
Release because OF COVID 19

Has grown along with the number
OF Confirmed cases. among
Inmates in the BOP Facilities
The take away is that the
COVID-19 Pandemic creates
an extraordinary and compelling
Reason for a sentence.

Reduction under 3582(c)(1)(A).

Here, Mr. Perez-Urena Reports
that he have some health.

Issues. Diabetes, and Surgery on
the eyes.

Regardless the threat to.

Mr. Perez-Urena. From.

COVID-19 combined with his
Life Sentence, his age and
the inevitability that he will
Die in prison for a.

Non-Violent, Drug Offense.
Creates an extraordinary and
compelling Reason that
Justifies Relief.

Mr. Perez-Urena
Back ground and exceptional
Rehabilitation over the past
15 years combined with
The other Reason is an
extraordinary and compelling Reason.

Rehabilitation OF the defendant alone shall not be considered an extraordinary and Compelling Reason.

18 U.S.C. 994 (t) (emphasis added)
See also - USSC. 1 B1.13 cmt.3
But the mention OF Rehabilitation may still be considered with other factors.

See Brown. N. 4:05-cr-00227
Dkt. N. 246 at *10 For the word -
"alone". to do any work as it must - that means courts can consider Rehabilitation as part of a compassionate Release motion. id
Here Mr Perez - Wena
Performance in custody shows a man who has matured, by the years that have passed. Although in custody at a U.S.P with its heightened levels of confinement and oversight - Mr. Perez - Wena has not incurred a single disciplinary infraction in several years. He has taken many classes as available to improve -

Himself.

He has been a model inmate for
of the time he has been in
custody. Over the past...
15 years.

Mr. Perez-Urrea has aged.
He committed his offense while
in his mid-40's.

He is now 60-years old.

Compared to the Description of
the offense conduct in the
PSR, his Sentry Report
indicate a significant level of
Rehabilitation.

Further incarceration would not
serve any purpose of Rehabilitation
considered with the injustice of
his Life Sentence, his Age
Background and Rehabilitation is an
extraordinary and compelling Reason
That Justifies Resentencing.

The court should grant.

Mr. Perez-Urrea's motion for
Compassionate Release.

3582(c)(1)(A)(i)

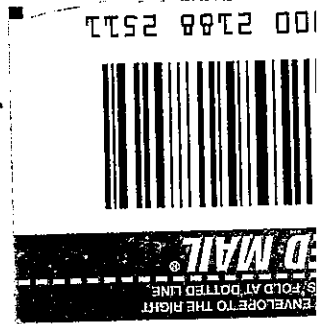
Criminal Case. No 1:05-CR -
0477-2-CC-GGB

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